



0000205789

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

LEA MÁRQUEZ PETERSON - Chairwoman
SANDRA D. KENNEDY
JUSTIN OLSON
ANNA TOVAR
JIM O'CONNOR

DOCKETED

JAN 31 2022

DOCKETED BY

In the matter of)

MSM Financial LLC (CRD No. 284781), an)
Arizona limited liability company, and)

Michael Sean Murphy (CRD No. 1315103), a)
single man,)

Respondents.)

DOCKET NO. S-21154A-21-0126

DECISION NO. 78416

**ORDER OF REVOCATION AND ORDER
FOR ADMINISTRATIVE PENALTIES**

On May 15, 2021, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order or Revocation and Order for Administrative Penalties (the "Notice") against Respondents MSM Financial LLC and Michael Sean Murphy.

On June 29, 2021, the Division served a copy of the Notice upon MSM Financial LLC via hand delivery to MSM Financial LLC's statutory agent. After numerous attempts to locate Michael Sean Murphy in person, the Division served a copy of the Notice upon Michael Sean Murphy via Certified Mail on October 9, 2021. No request for a hearing or answer to the Notice has been filed as of December 9, 2021.

I.

FINDINGS OF FACT

1. MSM Financial LLC ("MSM Financial") is a company organized under the laws of the state of Arizona on February 19, 2014. Michael Sean Murphy has been MSM Financial's sole member

1 since it was organized. MSM Financial has been licensed by the Commission as an investment advisor
2 since January 1, 2017. MSM Financial's CRD number is 284781.

3 2. Michael Sean Murphy has been an Arizona resident since at least January 1, 2017. On
4 information and belief, Murphy has been a single man since at least January 1, 2017. Murphy has been
5 licensed by the Commission as the sole investment advisor representative of MSM Financial since
6 January 1, 2017. Murphy's CRD number is 1315103. Murphy has also been MSM Financial's Chief
7 Compliance Officer since it was licensed.

8 3. MSM Financial and Murphy (collectively, "Respondents") have failed to produce
9 required information to the Division about their investment advisory services after over two years of
10 the Division's efforts to obtain that information.

11 4. On November 14, 2019, the Division conducted an on-site examination of MSM
12 Financial's virtual office location in Phoenix, Arizona ("On-Site Examination").

13 5. On December 19, 2019, the Division mailed a letter to Murphy as the owner of MSM
14 Financial ("December 2019 Letter") to MSM Financial's principal office location. The December
15 2019 Letter noted that the On-Site Examination disclosed several deficiencies in MSM Financial's
16 practices and procedures. The December 2019 Letter asked MSM Financial and Murphy to provide,
17 within 21 days, either copies of a signed written advisory agreement for each of their clients or a
18 notarized written narrative regarding their use and execution of each client's advisory agreement.
19 Neither MSM Financial nor Murphy ever responded to the December 2019 Letter.

20 6. On March 24, 2020, the Division emailed a copy of the December 2019 Letter to the
21 email address Murphy uses in his capacity as MSM Financial's chief compliance officer. All
22 subsequent emails to Murphy have been sent to the same address. MSM Financial and Murphy failed
23 to respond to this email.

24 7. On March 26, 2020, the Division emailed Murphy and asked him to confirm receipt
25 of the December 2019 Letter. MSM Financial and Murphy failed to respond to this email.

26

1 8. On April 30, 2020, the Division left a voicemail message for Murphy asking him to
2 keep the Division informed of the status of the deficiencies.

3 9. On May 4, 2020, the Division reached Murphy by telephone and discussed with him
4 how to satisfy the deficiencies identified in the December 2019 Letter.

5 10. On August 12, 2020, the Division emailed Murphy a letter ("August 2020 Letter")
6 detailing the current status of the deficiencies in MSM Financial's practices and procedures. Among
7 other issues, the August 2020 Letter again asked MSM Financial and Murphy to provide, within 21
8 days, a signed written advisory agreement for each of their clients or a notarized written narrative
9 regarding their use and execution of each client's advisory agreement. MSM Financial and Murphy
10 failed to respond to the August 2020 Letter.

11 11. On September 30, 2020, the Division left a voicemail message for Murphy asking him
12 to contact the Division about the August 2020 Letter. MSM Financial and Murphy failed to respond
13 to this voicemail.

14 12. On October 8, 2020, the Division left a voicemail message for Murphy asking him to
15 contact the Division about the August 2020 Letter.

16 13. On October 9, 2020, Murphy called the Division, and a Division employee spoke to
17 Murphy by telephone for an hour explaining all of the examination deficiencies described in the
18 August 2020 Letter.

19 14. On October 13, 2020, the Division sent an email to Murphy and left a voicemail for
20 him, both regarding the August 2020 Letter. MSM Financial and Murphy failed to respond to this
21 email and this voicemail.

22 15. On October 15, 2020, the Division sent an email to Murphy and left a voicemail for
23 him, both regarding the August 2020 Letter. Murphy responded to this email and promised to call
24 the Division on October 19, 2020, but he failed to do so.

25

26

1 16. On October 27, 2020, Murphy contacted the Division and said he had corrected some
2 of the deficiencies identified in the August 2020 letter, but he did not provide written advisory
3 agreements or an affidavit about the agreements.

4 17. On November 16, 2020, the Division sent an email to Murphy and left a voicemail for
5 him, both regarding the August 2020 Letter. MSM Financial and Murphy failed to respond to this
6 email and this voicemail.

7 18. On November 19, 2020, the Division emailed Murphy a letter ("November 2020
8 Letter") detailing the current status of the deficiencies in MSM Financial's practices and procedures.
9 The November 2020 Letter again asked MSM Financial and Murphy to provide, within 21 days, a
10 signed written advisory agreement for each of their clients or a notarized written narrative regarding
11 their use and execution of each client's advisory agreement. MSM Financial and Murphy failed to
12 respond to the November 2020 Letter.

13 19. The November 2020 Letter also noted that at least two elements of MSM Financial's
14 Form ADV disclosure filings were incomplete, inaccurate, or misleading and needed to be corrected
15 by amendment. MSM Financial has failed to correct those two elements of its Form ADV disclosure
16 filings.

17 20. On December 14, 2020, the Division sent an email to Murphy and left a voicemail for
18 him, both regarding the November 2020 Letter. MSM Financial and Murphy failed to respond to this
19 email and this voicemail.

20 21. On January 21, 2021, the Division sent an email to Murphy regarding the November
21 2020 Letter. MSM Financial and Murphy failed to respond to this email and this voicemail.

22 22. On March 17, 2021, the Division mailed and emailed a letter to Murphy ("March 2021
23 Letter") requesting that he appear before a Division attorney pursuant to A.R.S. § 44-3133 to provide
24 testimony on examination deficiencies and related issues on April 20, 2021. The March 2021 Letter
25 stated that in lieu of Murphy's appearance, he could resolve all outstanding deficiencies by April 15,
26 2021.

23. On March 25, 2021, Murphy sent an email to the Division in response to the March 2021 Letter stating only, "Sorry for the delay, I have covid, working on the situation." Murphy has not made any other communications to the Division since this email on March 25, 2021.

24. On April 8, 2021, the Commission issued an investigative subpoena pursuant to A.R.S. § 44-3133 (“Subpoena”) that required Murphy to appear before a Division attorney to provide testimony on examination deficiencies and related issues on April 22, 2021.

25. On April 8, 2021, the Division served the Subpoena on Murphy by Certified Mail, and the Subpoena was delivered to a person at Murphy's residence on April 12, 2021.

26. On April 19, 2021, the Division sent an email to Murphy with an electronic calendar invitation for his scheduled April 22, 2021, testimony and a link to join an online videoconferencing meeting for that testimony.

27. On April 22, 2021, Murphy failed to appear for his scheduled testimony as required by the Subpoena.

28. MSM Financial and Murphy have failed to produce a signed written advisory agreement for each of their clients or a notarized written narrative regarding their use and execution of each client's advisory agreement, as the Division has repeatedly requested for over two years. On information and belief, MSM Financial and Murphy do not have a signed written advisory agreement for each of their clients.

II.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Arizona Investment Management Act (“IM Act”).

2. Respondents MSM Financial and Murphy's conduct is grounds to revoke their respective licenses with the Commission as an investment adviser and an investment adviser representative pursuant to A.R.S. § 44-3201. Specifically, revocation of Respondents' licenses would be in the public interest, and:

- 1 a. Respondents have engaged in dishonest or unethical practices in the securities
2 industry, within the meaning of A.R.S. § 44-3201(A)(13), by refusing to allow or
3 otherwise impeding the Commission from conducting an investigation or
4 examination under the IM Act or any rule adopted thereunder, within the meaning
5 of A.A.C. R14-6-203(1);
- 6 b. Respondent MSM Financial has engaged in dishonest or unethical practices in the
7 securities industry, within the meaning of A.R.S. § 44-3201(A)(13), by entering
8 into investment advisory contracts that were not in writing with clients initially
9 retained after July 19, 1996, within the meaning of A.A.C. R14-6-203(14); and
- 10 c. Respondent MSM Financial's Form ADV filed to supplement its application for
11 licensure as an investment adviser is incomplete, inaccurate, or misleading, within
12 the meaning of A.R.S. § 44-3201(A)(1).

13 3. Respondents' conduct is grounds to assess restitution, penalties, and/or take
14 appropriate affirmative action pursuant to A.R.S. § 44-3201. Specifically, Respondents have engaged
15 in dishonest or unethical practices in the securities industry, within the meaning of A.R.S. § 44-
16 3201(A)(13).

17 III.

18 ORDER

19 THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission
20 finds that the following relief is appropriate, in the public interest, and necessary for the protection
21 of investors:

22 IT IS ORDERED, pursuant to A.R.S. § 44-3201, that Respondents MSM Financial and
23 Murphy's respective licenses with the Commission as an investment adviser and an investment
24 adviser representative are revoked.

25 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3296, that Respondents pay an
26 administrative penalty in the amount of \$1,000 as a result of the conduct set forth in the Findings of

1 Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made
2 to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

3 IT IS FURTHER ORDERED that the administrative penalty ordered in the preceding
4 paragraph will accrue interest at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per
5 annum that is equal to one per cent plus the prime rate as published by the board of governors of the
6 federal reserve system in statistical release H. 15 or any publication that may supersede it on the date
7 that the judgment is entered.

8 IT IS FURTHER ORDERED, that if Respondents fail to comply with this order, the
9 Commission may bring further legal proceedings against Respondents, including application to the
10 superior court for an order of contempt.

11 ...
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

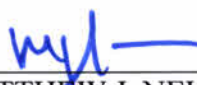

CHAIRWOMAN MÁRQUEZ PETERSON


COMMISSIONER KENNEDY

  
COMMISSIONER OLSON COMMISSIONER TOVAR COMMISSIONER O'CONNOR



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 31 day of January, 2022.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Carolyn D. Buck, ADA
Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov.

(SA)

1 SERVICE LIST FOR: MSM Financial LLC et al.

2

3

4 MSM Financial LLC
5 c/o United Sates Corp. Agents Inc.
6 17470 N. Pacesetter Way
7 Scottsdale, Arizona 85255
8 Respondent

9 3213 E. Roma Ave
10 Phoenix, Arizona 85018

11

12 Michael Sean Murphy
13 3213 E. Roma Ave
14 Phoenix, Arizona 85018
15 Respondent

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32